

YEAR _____

□ □ □ □

Special Election for Business Trusts and Certain Foreign Single Member LLCs

CALIFORNIA FORM

3574

Name of entity		FEIN
DBA/Attention		Secretary of State File Number
Delivery address		PMB no.
City, town, or post office	State	ZIP Code

If any of the entity's information has changed, complete the section below.

Name of entity		FEIN
DBA/Attention		Secretary of State File Number
Delivery address		PMB no.
City, town, or post office	State	ZIP Code

- 1 Type of Election: (See instructions)
 - a ☐ Existing eligible business trust electing to be taxed the same as federal (as a partnership).
 - b ☐ Previously existing foreign single member limited liability company electing to be taxed the same as federal (as a disregarded entry).
- 2 Effective date of election: month _____ date _____ year _____ .
- 3 Person whom Franchise Tax Board may call for more information.

Name of contact person	Title	Telephone ()
------------------------	-------	------------------------

Consent Statement and signature(s)

Under penalties of perjury, I (we) declare:

- I (We) consent to the election of the above-named entity to be classified as indicated above;
- I am (We are) aware of the filing requirements under California Revenue and Taxation Code Section 18633 and Section 18633.5 relating to the return filing requirements for a partnership or a disregarded entity;
- I am (We are) aware that this election is irrevocable;
- I (We) have examined the election and to the best of my (our) knowledge and belief, it is true, correct, and complete; and
- If I am an officer, manager, or member signing for other members of the entity, I further declare that I am authorized to execute this consent on their behalf.

Member's name (print)	Signature(s)	Title	Date

Instructions for Form FTB 3574

Special Election for Business Trusts and Certain Foreign Single Member LLCs

What's New

Effective January 1, 2000, California recognizes the formation of single member limited liability companies (SMLLCs) and provides that the members of a LLC are subject to the common law of alter ego liability (AB 831, Stats. 1999, Ch. 490).

General Information

A Purpose

Use form FTB 3574 to make an irrevocable election to be classified the same as federal for California tax purposes. If the entity is a business trust or a previously existing foreign SMLLC and the entity meets one of the conditions below, the entity is eligible for the election (Cal. Code of Reg. Section 23038):

1. The entity is a business trust that was classified as a corporation under California law, but was classified as a partnership for federal tax purposes for taxable years beginning before January 1, 1997; or
2. The entity is a previously existing foreign SMLLC that was classified as a corporation under California law, filed as a partnership for federal tax purposes for taxable years beginning before January 1, 1997.

This election does not apply to an entity that:

- Was properly classified as an association taxable as a corporation;
- Did not derive income from sources within California;
- Was not doing business within California; or
- Had no owner who was a resident of California within the 60-month period before January 1, 1997 (Revenue and Taxation Code Section 23038(b)(2)(c)).

Unless the business trust or previously existing foreign SMLLC makes this irrevocable election to be classified or disregarded, the entity will continue to be classified as a corporation for California tax purposes and must file Form 100, California Corporation Franchise or Income Tax Return. See Title 18 Cal. Code Reg. Section 23038(a)-(b) for more information.

B Check the Box Regulations

California has generally conformed to the federal entity classification regulations (commonly known as "check-the-box" regulations) that allow certain unincorporated entities to choose tax treatment as a partnership, a corporation, or as a disregarded entity (SB1234, Stats. 1997, Ch. 608). The regulations replace the former system of analyzing four corporate characteristics to determine classification for tax purposes. An "eligible entity" may choose its classification. An "eligible entity" is defined as a business entity that is not a trust, a corporation organized under any federal or state statute, a foreign entity specifically listed as a per se corporation, or other special business entities. Other special business entities under the Internal Revenue Code include publicly traded partnerships, real estate mortgage investment conduits, financial asset securitization investment trusts, or regulated investment companies. An eligible entity with two or more owners will be a partnership for tax purposes unless it elects to be taxed as a corporation. An eligible entity with a single owner will be disregarded for tax purposes. If the separate existence of an entity is disregarded, its activities are treated as activities of the owner and are reported on the proper California return.

Generally, any elections made for federal purposes, under the federal "check-the-box" regulations are binding for California purposes, and no separate state elections are allowed. However, there is an exception in the case of certain eligible business entities. This exception applies to business trusts and previously existing foreign SMLLCs.

C Effective Date of Election

Generally, the election will take effect on the date entered on form FTB 3574, line 2. If no date is entered, the effective date will be the date the form is filed. The effective date specified can be no more than 12 months after the date on which the election is filed, and no more than 75 calendar days prior to the date on which the election is filed.

If an effective date is selected which is more than 12 months after the filing date, the election will take effect 12 months after the date the election was filed. If a date is chosen which is more than 75 calendar days prior to the date on which the election is filed, the election will take effect 75 days before the date it is filed.

D Consent Statement and Signatures

Form FTB 3574 must be signed by:

1. Each member of the electing entity who is an owner at the time the election is filed; or
2. Any officer, manager, or member of the electing entity who represents to having such authority under penalties of perjury.

For an election to be effective for any period prior to the time it is filed, each person who is an owner of an interest in the eligible entity between the date the election is to be effective and the date the election is filed and was not an owner at the time the election is filed must also sign the election.

If you need a continuation sheet, use a second form FTB 3574 and attach it to the completed first copy.

E Where to File

Complete and mail the form FTB 3574 to:

C-CORPORATION PROGRAM
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-1673

Also, attach a copy of this election to the last return filed for the existing entity and the first return of the new entity.

F Important Information

If an entity taxable as a corporation for California purposes elects to be classified as a partnership or disregarded entity in the same manner as the entity is classified or disregarded for federal tax purposes, the entity must treat the change of classification as a liquidation of a corporation. This may cause a short-period filing requirement. The corporation must also recognize the tax consequences of such a dissolution.